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October 7, 2019

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT 10 2019

Vance Anderson, CEO and Legally Responsible Person
Lynx Enterprises, Inc.
724 E. Grant Line Road
Tracy, CA 95304

Lynx Enterprises, Inc.
724 E. Grant Line Road
Tracy, CA 95304

VIA FIRST CLASS MAIL

Vance Anderson
(Registered Agent for Service of Process for Lynx Enterprises, Inc.)
617 Rebekah Court
Ripon, CA 95366

Re: Notice of Violations and Intent to File Suit under the Federal Water Pollution Control Act

Dear Mr. Anderson:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act (the "Act") that CSPA believes are occurring at your industrial facility located at 724 E. Grant Line Road in Tracy, California ("Facility"). CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Sacramento-San Joaquin Delta, San Joaquin River, and other California waters. This letter is being sent to Lynx Enterprises, Inc., and Vance Anderson as the responsible owner and operator of the Facility (all recipients are hereinafter collectively referred to as "Lynx Enterprises").

This letter addresses Lynx Enterprise's unlawful discharge of pollutants from the Facility to the City of Tracy's municipal storm drain system, which then flow to Old River, Middle River, and on into the Delta and Suisun Bay. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 97-03-DWQ ("1997 Permit") as renewed by Order No. 2015-0057-DWQ ("2015 Permit"). The 1997 Permit was in effect between 1997 and June 30, 2015, and the 2015 Permit went into effect on July 1, 2015. As explained below, the 2015 Permit maintains or makes more stringent the same requirements as

the 1997 Permit. As appropriate, CSPA refers to the 1997 and 2015 Permits in this letter collectively as the "General Permit." This letter notifies Lynx Enterprises of ongoing violations of the substantive and procedural requirements of the General Permit at the Facility.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, CSPA hereby places Lynx Enterprises on formal notice that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CSPA intends to file suit in federal court against Lynx Enterprises under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

A. The Facility.

On December 4, 2015, Lynx Enterprises filed its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). The Waste Discharger Identification Number ("WDID") for the Facility listed on documents submitted to the State Board is 5S39I026339. In the NOI, Lynx Enterprises certifies that the Facility is classified under SIC code 3444 ("Sheet Metal Work"). The Facility collects and discharges storm water from its 223,564 square foot industrial site into at least nine storm water discharge locations at the Facility. The Facility discharges stormwater to a municipal storm drain operated by the City of Tracy, which conveys the Facility's storm water discharges to the Old River, Middle River, the Delta and Suisun Bay. CSPA is informed and believes that the Facility has been in operation under the current ownership since about 1993. During that entire period, the Facility has been subject to the Clean Water Act's stormwater control requirements. However, the Facility does not appear to have enrolled in the General Permit until December 2015. Accordingly, for many years, the Facility was discharging polluted stormwater illegally without an NPDES permit.

B. Water Quality Standards, Guidelines, and Numeric Action Levels.

The Regional Board has identified beneficial uses of the Central Valley Region's waters and established water quality standards for the Sacramento-San Joaquin Delta, in "The Water Quality Control Plan (Basin Plan) for the California Regional Water Quality Control Board, Central Valley Region – The Sacramento River Basin and The San Joaquin River Basin," generally referred to as the Basin Plan. *See* https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf.

The beneficial uses of these waters include, among others, domestic and municipal supply, water contact recreation, non-contact recreation, wildlife habitat, warm and cold freshwater habitat, and fish spawning. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but where there is generally no body contact with water, nor any likelihood of ingestion of water. These uses include, but are not limited to, picnicking, sunbathing, hiking, camping, boating, . . . hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." Basin Plan at 2-2. Contact recreation includes "swimming, wading, water-skiing, skin and scuba diving, surfing, white water activities, fishing, or use of natural hot springs." *Id.* Visible pollution, including cloudy or muddy water from industrial areas, impairs people's use of the Old River, Middle River, and the Delta for contact and non-contact water recreation.

The Basin Plan establishes water quality standards for the Sacramento-San Joaquin River Delta. It includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." *Id.* at 3-15. It provides that "[w]ater shall not contain floating material in amounts that cause nuisance or adversely affect beneficial uses." *Id.* at 3-7. It provides that "[w]ater shall be free of discoloration that causes nuisance or adversely affects beneficial uses." *Id.* at 3-6. It provides that "[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-13. The Basin Plan requires that "[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." *Id.* at 3-15. The Basin Plan also prohibits the discharges of oil and grease, stating that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses." *Id.* at 3-8. The Basin Plan provides that the pH shall not be depressed below 6.5 nor raised above 8.5. *Id.*

Table 3-1 of the Basin Plan establishes a water quality objective ("WQO") for iron of 0.3 mg/L and for zinc of 0.1 mg/L (with some variation based on the hardness of the receiving water).

The Basin Plain provides that "[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Tables 64431-A (Inorganic Chemicals) and 64431-B (Fluoride) of Section 64431, Table 64444-A (Organic Chemicals) of Section 64444, and Tables 64449-A (Secondary Maximum Contaminant Levels-Consumer Acceptance Limits) and 64449-B (Secondary Maximum Contaminant Levels-Ranges) of Section 64449." *Id.* at 3-16. Table 64449-A provides Secondary MCL ("SMCL") for iron of 0.3 mg/L. Table 64431-A provides a Primary MCL for aluminum of 1.0 mg/L and Table 64449-A provides a SMCL for aluminum of 0.2 mg/L.

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology

economically achievable ("BAT") and best conventional pollutant control technology ("BCT").[1] The following benchmarks have been established for pollutants discharged by Lynx Enterprises: pH – 6.0 - 9.0 standard units ("s.u."); total suspended solids ("TSS") – 100 mg/L; aluminum – 0.75 mg/L; Nitrate & Nitrite as Nitrogen ("N+N") – 0.68 mg/L; zinc – 0.08 – 0.2 mg/L;[2] and iron – 1.0 mg/L.

These benchmarks are reflected in the 2015 Permit in the form of Numeric Action Levels ("NALs"). The 2015 Permit incorporates annual NALs and instantaneous maximum NALs, which are derived from a Water Board dataset. The following annual NALs have been established under the 2015 Permit for pollutants discharged by Lynx Enterprises: TSS – 100 mg/L; aluminum – 0.75 mg/L; N+N – 0.68 mg/L; zinc — 0.26 mg/L; and iron – 1.0 mg/L. The 2015 Permit also establishes the following instantaneous maximum NALs: pH – 6.0-9.0 s.u.; TSS – 400 mg/L; and oil & grease ("O&G") – 25 mg/L.

The State of California maintains a list of impaired waterways pursuant to Section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d). Old River is included on the impaired waters list. Old River is identified as impaired by chlorpyrifos, electrical conductivity, low dissolved oxygen, and total dissolved solids. Middle River is identified as impaired by low dissolved oxygen. Discharges of pollutants in storm water from the Facility include pollutants that contribute to some of these impairments, including electrical conductivity, low dissolved oxygen, and total dissolved solids.

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit.

Lynx Enterprises has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A). BAT and BCT include both nonstructural and structural measures. 1997 Permit, Section A(8); 2015 Permit, Section X(H). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

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[1] The Benchmark Values can be found at: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf.

[2] The benchmark for zinc depends upon the hardness of the water. CSPA is informed and believes that hardness measured in Old River and Middle River range from about 50 to 200 mg/L as CaCO3.

In addition, Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit also prohibit storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) of the 2015 Permit. As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Lynx Enterprises has discharged and continues to discharge storm water with unacceptable levels of TSS, aluminum, N+N, zinc, and iron in violation of the General Permit. Lynx Enterprises' sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the General Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained observations and measurements of pollutants in excess of applicable numerical and narrative water quality standards established in the Basin Plan. They have thus violated Discharge Prohibitions A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit, and Effluent Limitation V(A) of the 2015 Permit.

Sampling / Observation Date	**Parameter**	**Observed Concentration**	**Basin Plan Water Quality Objective / CTR**	**Outfall (as identified by Facility)**
04/05/2019	Aluminum	4.5 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X1 Storm Drain #3
04/05/2019	Aluminum	3.9 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X2 Storm Drain #4
04/05/2019	Aluminum	4.8 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X3 Storm Drain #7
04/05/2019	Aluminum	0.49 mg/L	0.2 mg/L (SMCL)	X4 Storm Drain #9
01/16/2019	Aluminum	3.68 mg/L	1 mg/L (Primary MCL);	X1 Storm Drain #3

			0.2 mg/L (SMCL)	
01/16/2019	Aluminum	2.73 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X2 Storm Drain #4
01/16/2019	Aluminum	9.53 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X3 Storm Drain #7
11/29/2018	Aluminum	10.5 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X1 Storm Drain #3
11/29/2018	Aluminum	2.07 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X2 Storm Drain #4
11/29/2018	Aluminum	8.28 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X3 Storm Drain #7
11/29/2018	Aluminum	5.95 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X4 Storm Drain #9
04/16/2018	Aluminum	4.24 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X1 Storm Drain #3
04/16/2018	Aluminum	3.92 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X2 Storm Drain #4
04/16/2018	Aluminum	8.93 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X3 Storm Drain #7
04/16/2018	Aluminum	6.06 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X4 Storm Drain #9
03/22/2018	Aluminum	28 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X1 Storm Drain #3
03/22/2018	Aluminum	2.23 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X2 Storm Drain #4
03/22/2018	Aluminum	2.38 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X3 Storm Drain #7
03/22/2018	Aluminum	5.88 mg/L	1 mg/L (Primary MCL); 0.2 mg/L (SMCL)	X4 Storm Drain #9
04/05/2019	Iron	7.5 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X1 Storm Drain #3
04/05/2019	Iron	11 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X2 Storm Drain #4
04/05/2019	Iron	9 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X3 Storm Drain #7
04/05/2019	Iron	0.85 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X4 Storm Drain #9
01/16/2019	Iron	7.06 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X1 Storm Drain #3
01/16/2019	Iron	5.89 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X2 Storm Drain #4
01/16/2019	Iron	22.8 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X3 Storm Drain #7
11/29/2018	Iron	17.7 mg/L	0.3 mg/L (WQO) / 0.3	X1 Storm Drain #3

			mg/L (SMCL)	
11/29/2018	Iron	4.19 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X2 Storm Drain #4
11/29/2018	Iron	14.2 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X3 Storm Drain #7
11/29/2018	Iron	9.76 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X4 Storm Drain #9
04/16/2018	Iron	5.89 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X1 Storm Drain #3
04/16/2018	Iron	8 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X2 Storm Drain #4
04/16/2018	Iron	11 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X3 Storm Drain #7
04/16/2018	Iron	9.04 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X4 Storm Drain #9
03/22/2018	Iron	30.5 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X1 Storm Drain #3
03/22/2018	Iron	3.98 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X2 Storm Drain #4
03/22/2018	Iron	3.2 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X3 Storm Drain #7
03/22/2018	Iron	6.58 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	X4 Storm Drain #9
04/05/2019	Zinc	0.35 mg/L	0.1 mg/L (WQO)	X1 Storm Drain #3
04/05/2019	Zinc	0.61 mg/L	0.1 mg/L (WQO)	X2 Storm Drain #4
04/05/2019	Zinc	0.81 mg/L	0.1 mg/L (WQO)	X3 Storm Drain #7
04/05/2019	Zinc	1.2 mg/L	0.1 mg/L (WQO)	X4 Storm Drain #9
01/16/2019	Zinc	1.15 mg/L	0.1 mg/L (WQO)	X1 Storm Drain #3
01/16/2019	Zinc	0.688 mg/L	0.1 mg/L (WQO)	X2 Storm Drain #4
01/16/2019	Zinc	5.13 mg/L	0.1 mg/L (WQO)	X3 Storm Drain #7
01/16/2019	Zinc	0.926 mg/L	0.1 mg/L (WQO)	X4 Storm Drain #9
11/29/2018	Zinc	0.855 mg/L	0.1 mg/L (WQO)	X1 Storm Drain #3
11/29/2018	Zinc	0.382 mg/L	0.1 mg/L (WQO)	X2 Storm Drain #4
11/29/2018	Zinc	1.01 mg/L	0.1 mg/L (WQO)	X3 Storm Drain #7
11/29/2018	Zinc	2.87 mg/L	0.1 mg/L (WQO)	X4 Storm Drain #9
04/16/2018	Zinc	0.594 mg/L	0.1 mg/L (WQO)	X1 Storm Drain #3
04/16/2018	Zinc	0.768 mg/L	0.1 mg/L (WQO)	X2 Storm Drain #4
04/16/2018	Zinc	0.655 mg/L	0.1 mg/L (WQO)	X3 Storm Drain #7
04/16/2018	Zinc	3.78 mg/L	0.1 mg/L (WQO)	X4 Storm Drain #9
03/22/2018	Zinc	2.12 mg/L	0.1 mg/L (WQO)	X1 Storm Drain #3
03/22/2018	Zinc	0.292 mg/L	0.1 mg/L (WQO)	X2 Storm Drain #4
03/22/2018	Zinc	0.291 mg/L	0.1 mg/L (WQO)	X3 Storm Drain #7
03/22/2018	Zinc	2.67 mg/L	0.1 mg/L (WQO)	X4 Storm Drain #9

The information in the above table reflects data gathered from Lynx Enterprises' self-monitoring during the 2017-2018 and 2018-2019 reporting years. The Facility failed to enroll under the General Permit prior to December 2015 and failed to conduct any monitoring prior to the 2017-2018 reporting year. Nevertheless, the Facility was obligated to obtain coverage under the General Permit and comply with the receiving water limitations. CSPA alleges that since at least October 7, 2014 and continuing through the date of this notice, Lynx Enterprises has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Aluminum – 1 mg/L (Primary MCL)
- Aluminum – 0.2 mg/L (SMCL)
- Iron – 0.3 mg/L (WQO and SMCL)
- Zinc – 0.1 mg/L (WQO)

The following discharges of pollutants from the Facility have contained measurements of pollutants in excess of applicable NALs and EPA benchmarks. The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.

Sampling / Observation Date	**Parameter**	**Observed Concentration / Conditions**	**Annual NAL/Instantaneous Maximum NAL/ EPA Benchmark Value /**	**Outfall (as identified by the Facility)**
04/05/2019	Aluminum	4.5 mg/L		X1 Storm Drain #3
04/05/2019	Aluminum	3.9 mg/L		X2 Storm Drain #4
04/05/2019	Aluminum	4.8 mg/L		X3 Storm Drain #7
01/16/2019	Aluminum	3.68 mg/L		X1 Storm Drain #3
01/16/2019	Aluminum	2.73 mg/L		X2 Storm Drain #4
01/16/2019	Aluminum	9.53 mg/L		X3 Storm Drain #7
11/29/2018	Aluminum	10.5 mg/L		X1 Storm Drain #3
11/29/2018	Aluminum	2.07 mg/L		X2 Storm Drain #4

11/29/2018	Aluminum	8.28 mg/L		X3 Storm Drain #7
11/29/2018	Aluminum	5.95 mg/L		X4 Storm Drain #9
2018-2019 Annual Average:	Aluminum	4.71 mg/L	0.75 mg/L	All
04/16/2018	Aluminum	4.24 mg/L		X1 Storm Drain #3
04/16/2018	Aluminum	3.92 mg/L		X2 Storm Drain #4
04/16/2018	Aluminum	8.93 mg/L		X3 Storm Drain #7
04/16/2018	Aluminum	6.06 mg/L		X4 Storm Drain #9
03/22/2018	Aluminum	28 mg/L		X1 Storm Drain #3
03/22/2018	Aluminum	2.23 mg/L		X2 Storm Drain #4
03/22/2018	Aluminum	2.38 mg/L		X3 Storm Drain #7
03/22/2018	Aluminum	5.88 mg/L		X4 Storm Drain #9
2017-2018 Annual Average:	Aluminum	7.71 mg/L	0.75 mg/L	All
04/05/2019	Iron	7.5 mg/L		X1 Storm Drain #3
04/05/2019	Iron	11 mg/L		X2 Storm Drain #4
04/05/2019	Iron	9 mg/L		X3 Storm Drain #7
01/16/2019	Iron	7.06 mg/L		X1 Storm Drain #3
01/16/2019	Iron	5.89 mg/L		X2 Storm Drain #4
01/16/2019	Iron	22.8 mg/L		X3 Storm Drain #7
11/29/2018	Iron	17.7 mg/L		X1 Storm Drain #3
11/29/2018	Iron	4.19 mg/L		X2 Storm Drain #4

11/29/2018	Iron	14.2 mg/L		X3 Storm Drain #7
11/29/2018	Iron	9.76 mg/L		X4 Storm Drain #9
2018-2019 Annual Average:	Iron	9.17 mg/L	1.0 mg/L	All
04/16/2018	Iron	5.89 mg/L		X1 Storm Drain #3
04/16/2018	Iron	8 mg/L		X2 Storm Drain #4
04/16/2018	Iron	11 mg/L		X3 Storm Drain #7
04/16/2018	Iron	9.04 mg/L		X4 Storm Drain #9
03/22/2018	Iron	30.5 mg/L		X1 Storm Drain #3
03/22/2018	Iron	3.98 mg/L		X2 Storm Drain #4
03/22/2018	Iron	3.2 mg/L		X3 Storm Drain #7
03/22/2018	Iron	6.58 mg/L		X4 Storm Drain #9
2017-2018 Annual Average:	Iron	9.77 mg/L	1.0 mg/L	All
04/05/2019	Zinc	0.35 mg/L		X1 Storm Drain #3
04/05/2019	Zinc	0.61 mg/L		X2 Storm Drain #4
04/05/2019	Zinc	0.81 mg/L		X3 Storm Drain #7
04/05/2019	Zinc	1.2 mg/L		X4 Storm Drain #9
01/16/2019	Zinc	1.15 mg/L		X1 Storm Drain #3
01/16/2019	Zinc	0.688 mg/L		X2 Storm Drain #4
01/16/2019	Zinc	5.13 mg/L		X3 Storm Drain #7
01/16/2019	Zinc	0.926 mg/L		X4 Storm Drain #9

11/29/2018	Zinc	0.855 mg/L		X1 Storm Drain #3
11/29/2018	Zinc	0.382 mg/L		X2 Storm Drain #4
11/29/2018	Zinc	1.01 mg/L		X3 Storm Drain #7
11/29/2018	Zinc	2.87 mg/L		X4 Storm Drain #9
2018-2019 Annual Average:	Zinc	1.33 mg/L	0.26 mg/L	All
04/16/2018	Zinc	0.594 mg/L		X1 Storm Drain #3
04/16/2018	Zinc	0.768 mg/L		X2 Storm Drain #4
04/16/2018	Zinc	0.655 mg/L		X3 Storm Drain #7
04/16/2018	Zinc	3.78 mg/L		X4 Storm Drain #9
03/22/2018	Zinc	2.12 mg/L		X1 Storm Drain #3
03/22/2018	Zinc	0.292 mg/L		X2 Storm Drain #4
03/22/2018	Zinc	0.291 mg/L		X3 Storm Drain #7
03/22/2018	Zinc	2.67 mg/L		X4 Storm Drain #9
2017-2018 Annual Average:	Zinc	1.4 mg/L	0.26 mg/L	All
04/05/2019	N+N	1.3 mg/L		X1 Storm Drain #3
04/05/2019	N+N	4.1 mg/L		X4 Storm Drain #9
01/16/2019	N+N	1.15 mg/L		X3 Storm Drain #7
2018-2019 Annual Average:	N+N	0.79 mg/L	0.68 mg/L	X1 Storm Drain #3, X3 Storm Drain #7, X4 Storm Drain #9
04/16/2018	N+N	1.84 mg/L		X3 Storm Drain

				#7
03/22/2018	N+N	0.727 mg/L		X3 Storm Drain #7
2017-2018 Annual Average:	N+N	0.65 mg/L	0.68 mg/L	X3 Storm Drain #7
04/05/2019	TSS	170 mg/L		X1 Storm Drain #3
04/05/2019	TSS	280 mg/L		X2 Storm Drain #4
04/05/2019	TSS	130 mg/L		X3 Storm Drain #7
01/16/2019	TSS	436 mg/L	400 mg/L	X1 Storm Drain #3
01/16/2019	TSS	156 mg/L		X2 Storm Drain #4
01/16/2019	TSS	608 mg/L	400 mg/L	X3 Storm Drain #7
11/29/2018	TSS	473 mg/L	400 mg/L	X1 Storm Drain #3
11/29/2018	TSS	573 mg/L	400 mg/L	X3 Storm Drain #7
2018-2019 Annual Average:	TSS	268.7 mg/L	100 mg/L	X1 Storm Drain #3, X2 Storm Drain #4, X3 Storm Drain #7
04/16/2018	TSS	251 mg/L		X1 Storm Drain #3
04/16/2018	TSS	152 mg/L		X2 Storm Drain #4
04/16/2018	TSS	260 mg/L		X3 Storm Drain #7
04/16/2018	TSS	252 mg/L		X4 Storm Drain #9
03/22/2018	TSS	1220 mg/L		X1 Storm Drain #3
03/22/2018	TSS	109 mg/L		X2 Storm Drain #4
03/22/2018	TSS	140 mg/L		X4 Storm Drain #9
2017-2018	TSS	305.1 mg/L	100 mg/L	All

Annual Average:				

The information in the above table reflects data gathered from Lynx Enterprises' self-monitoring during the 2017-2018 and 2018-2019 reporting years. CSPA notes that Lynx Enterprises' sampling results from the 2017-2018 reporting year placed the Facility in Level 1 Status pursuant to the General Permit. **Because neither the Facility's discharges of** aluminum, iron, N+N, TSS, nor zinc have been meaningfully reduced as a result of the Facility's Level 1 Status Report, as of July 1, 2019, the Facility is now in Level 2 Status. CSPA alleges that since at least October 7, 2014 Lynx Enterprises has discharged storm water contaminated with pollutants at levels that exceed the applicable NALs and EPA Benchmarks for aluminum, iron, N+N, TSS, and zinc.

CSPA's investigation, including its review of Lynx Enterprises' Storm Water Pollution **Prevention Plan ("SWPPP"), Lynx Enterprises' Level 1 ERA Report, and Lynx Enterprises'** analytical results documenting **pollutant levels in the Facility's storm water discharges well in** excess of applicable water quality standards, NALs, and EPA benchmark values indicates that Lynx Enterprises has not implemented BAT and BCT at the Facility for its discharges of aluminum, iron, N+N, TSS, and zinc, and potentially other pollutants, in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit. Lynx Enterprises was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Lynx Enterprises is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit. CSPA alleges that such violations also have occurred and will occur on other rain dates, including on information and belief every significant rain event that has occurred since October 7, 2014 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that Lynx Enterprises has discharged storm water containing impermissible and unauthorized levels of aluminum, iron, N+N, TSS, and/or zinc in violation of Section 301(a) of the Act as well as Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; and Effluent Limitation V(A), Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit.[3]

[3] The rain dates on the attached table are all the days when 0.03 inches or more of rain was measured at a weather station in close proximity to the Facility or samples were taken of stormwater discharging from the Facility. The data was accessed via https://www.ncdc.noaa.gov/cdo-web/ (Last accessed on September 20, 2019).

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Each discharge of storm water constitutes an unauthorized discharge of aluminum, iron, N+N, TSS, and/or zinc, and storm water associated with industrial activity in violation of Section 301(a) of the CWA. Each day that the Facility operates without implementing BAT/BCT is a violation of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Lynx Enterprises is subject to penalties for violations of the General Permit and the Act since October 7, 2014.

B. Failure to Conduct Sampling and Analysis.

The 1997 Permit requires facility operators to develop and implement an adequate Monitoring and Reporting Program before industrial activities begin at a facility. *See* 1997 Permit, § B(1). The 2015 Permit includes similar monitoring and reporting requirements. *See* 2015 Permit, § XI. The primary objective of the Monitoring and Reporting Program is to both observe and to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. An adequate Monitoring and Reporting Program therefore ensures that BMPs are effectively reducing and/or eliminating pollutants at a facility, and is evaluated and revised whenever appropriate to ensure compliance with the General Permit.

Sections B(3)-(16) of the 1997 Permit set forth the monitoring and reporting requirements. As part of the Monitoring Program, all facility operators must conduct visual observations of storm water discharges and authorized non-storm water discharges, and collect and analyze samples of storm water discharges. As part of the Reporting Program, all facility operators must timely submit an Annual Report for each reporting year. The monitoring and reporting requirements of the 2015 Permit are substantially similar to those in the 1997 Permit, and in several instances more stringent.

The 1997 Permit requires dischargers to collect storm water samples during the first hour of discharge from the first storm event of the wet season, and at least one other storm event during the wet season, from all storm water discharge locations at a facility. *See* 1997 Permit, § B(5). A sample must be collected from each discharge point at the facility, and in the event that an operator fails to collect samples from the first storm event, the operators must still collect samples from two other storm events and "shall explain in the Annual Report why the first storm event was not sampled." *See* 1997 Permit, § B(5)(a). The 2015 Permit now mandates that facility operators sample *four* (rather than two) storm water discharges from all discharge locations over the course of the reporting year. *See* 2015 Permit, §§ XI(B)(2), (3). Storm water discharges trigger the sampling requirement under the 1997 Permit when they occur during facility operating hours and are preceded by at least three working days without storm water discharge. *See* 1997 Permit, § B(5)(b). The 2015 Permit shortens the preceding no discharge period to 48 hours. *See* 2015 Permit, § XI(B)(1). Samples must be collected from each drainage area at all discharge locations and be representative of storm water associated with the Facility's industrial activity and any commingled discharges. *See* 2015 Permit, § XI(B)(4); *see also* 1997 Permit § B(5)(a). "The Discharger shall collect and analyze storm water samples from two (2) [qualifying

storm events] QSEs within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30)." 2015 Permit, XI(B)(2). A discharger must submit the sampling and analytical results to the State Board's SMARTs database "within 30 days of obtaining all results for each sampling event." 2015 Permit, XI(B)(11)(a).

Because Lynx Enterprises failed to enroll in the General Permit until December 2015, Lynx Enterprises failed to collect any storm water samples from the facility for the 2014-2015 and 2015-2016 rainy seasons. By failing to enroll in the General Permit and failing to obtain storm water samples, Lynx Enterprises violated Sections 301(a) and 402 by discharging pollutants from a point source without obtaining a NPDES permit. The failure to obtain a permit and gather representative storm water samples and testing results for the Facility for the 2014-2015 and 2015-2016 rain years continues to this day to deprive CSPA and its members of information and pollution data that the Facility was required to obtain under the Clean Water Act.

On information and belief, CSPA alleges that during the 2015-2016 reporting year, Lynx Enterprises failed to collect and analyze storm water samples from all four requisite storm events. CSPA alleges that local precipitation data shows that discharges occurred on several dates during that wet season on which the Facility was open. Specifically, CSPA alleges that discharges occurred on the following dates where discharges from qualifying rain events occurred but a storm sample was not taken at the Facility:

- December 10, 2015
- December 14, 2015
- December 21, 2015
- December 24, 2015
- December 28, 2015
- January 5, 2016
- January 13, 2016
- January 18, 2016
- January 23, 2016
- January 30, 2016
- February 18, 2016
- March 5, 2016
- March 12, 2016
- April 9, 2016
- April 14, 2016
- April 23, 2016
- April 28, 2016
- May 6, 2016
- May 22, 2016

Because Lynx Enterprises failed to take any of the four requisite water samples from each of the Facility's four discharge locations for the entire 2015-2016 reporting year, Lynx Enterprises has violated the General Permit's monitoring requirement for that entire period, amounting to at least 16 violations of the Act. These violations of the General Permit are ongoing. Lynx Enterprises is subject to penalties for each of those daily violations of the General Permit and the Act's monitoring and sampling requirements.

On information and belief, CSPA alleges that during the 2016-2017 reporting year, Lynx Enterprises failed to collect and analyze storm water samples from any storm event. CSPA alleges that local precipitation data shows that discharges occurred on several dates during that wet season on which the Facility was open. Specifically, CSPA alleges that discharges occurred on the following dates where discharges from qualifying rain events occurred but a storm water sample was not taken at the Facility:

- October 15, 2016
- October 25, 2016
- October 31, 2016
- November 19, 2016
- November 27, 2016
- December 8, 2016
- December 11, 2016
- December 16, 2016
- December 23, 2016
- January 3, 2017
- January 18, 2017
- February 2, 2017
- February 16, 2017
- March 20, 2017
- April 7, 2017
- April 13, 2017
- April 17, 2017

Because Lynx Enterprises failed to take any of the four requisite water samples for the entire 2016-2017 reporting year, Lynx Enterprises has violated the General Permit's monitoring requirement for that entire period, amounting to at least 16 violations of the Act. These violations of the General Permit are ongoing. Lynx Enterprises is subject to penalties for each of those daily violations of the General Permit and the Act's monitoring and sampling requirements.

On information and belief, CSPA alleges that during the 2017-2018 reporting year, Lynx Enterprises failed to collect and analyze storm water samples from two of the requisite four storm events. CSPA alleges that local precipitation data compared to dates when the Facility did collect storm water samples shows that discharges occurred on several dates during that wet

season on which the Facility was open. Specifically, CSPA alleges that discharges occurred on the following dates where discharges from qualifying rain events occurred but a storm water sample was not taken at the Facility:

- November 14, 2017
- November 17, 2017
- November 27, 2017
- December 20, 2017
- January 3, 2018
- January 8, 2018
- January 19, 2018
- January 22, 2018
- February 23, 2018
- February 27, 2018
- March 1, 2018
- March 13, 2018
- March 21, 2018
- April 6, 2018
- April 12, 2018

Because Lynx Enterprises failed to take two of the four requisite water samples for the entire 2017-2018 reporting year, Lynx Enterprises has violated the General Permit's monitoring requirement for that entire period, amounting to at least 8 violations of the Act. These violations of the General Permit are ongoing. Lynx Enterprises is subject to penalties for each of those daily violations of the General Permit and the Act's monitoring and sampling requirements.

On information and belief, CSPA alleges that during the 2018-2019 reporting year, Lynx Enterprises failed to collect and analyze storm water samples from one of the requisite four storm events. CSPA alleges that local precipitation data compared to dates when the Facility did collect storm water samples shows that discharges occurred on several dates during that wet season on which the Facility was open. Specifically, CSPA alleges that discharges occurred on the following dates where discharges from qualifying rain events occurred but a storm water sample was not taken at the Facility:

- October 3, 2018
- November 28, 2018
- December 5, 2018
- December 17, 2018
- January 6, 2019
- January 9, 2019
- January 15, 2019
- January 21, 2019

- January 31, 2019
- February 2, 2019
- February 9, 2019
- February 13, 2019
- February 26, 2019
- March 2, 2019
- March 6, 2019
- March 20, 2019
- March 23, 2019
- March 26, 2019
- March 29, 2019
- April 6, 2019
- April 16, 2019
- May 16, 2019
- May 19, 2019
- May 23, 2019

Because Lynx Enterprises failed to take one of the four requisite water samples for the entire 20158-2019 reporting year, Lynx Enterprises has violated the General Permit's monitoring requirement for that entire period, amounting to at least 4 violations of the Act. These violations of the General Permit are ongoing. Lynx Enterprises is subject to penalties for each of those daily violations of the General Permit and the Act's monitoring and sampling requirements.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

Under the General Permit, the State Board has designated the SWPPP as one of the cornerstones of compliance with NPDES requirements for storm water discharges from industrial facilities, and ensuring that operators meet effluent and receiving water limitations. Section A(1) and Provision E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP prior to beginning industrial activities that meet all of the requirements of the 1997 Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-stormwater discharges from the facility, and to implement BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges. *See* 1997 Permit § A(2); 2015 Permit § X(C). These BMPs must achieve compliance with the General Permit's effluent limitations and receiving water limitations. To ensure compliance with the General Permit, the SWPPP must be evaluated and revised as necessary. 1997 Permit §§ A(9), (10); 2015 Permit § X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. 2015 Permit Factsheet § I(1).

Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map; a list of

significant materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-stormwater discharges, including structural BMPs where non-structural BMPs are not effective. Sections X(D)–X(I) of the 2015 Permit set forth essentially the same SWPPP requirements as the 1997 Permit, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT, which serve as the basis for compliance with the 2015 Permit's technology-based effluent limitations. *See* 2015 Permit § X(H). The 2015 Permit further requires a more comprehensive assessment of potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. *See* 2015 Permit §§ X(G)(2), (4), (5).

The 2015 Permit requires dischargers to implement and maintain, to the extent feasible, all of the following minimum BMPs in order to reduce or prevent pollutants in industrial storm water discharges: good housekeeping, preventive maintenance, spill and leak prevention and response, material handling and waste management, erosion and sediment controls, an employee training program, and quality assurance and record keeping. *See* 2015 Permit, § X(H)(1). Failure to implement all of these minimum BMPs is a violation of the 2015 Permit. *See* 2015 Permit Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. *See* 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP Descriptions and a BMP Summary Table. *See* 2015 Permit § X(H)(4), (5). A Facility's BMPs must, at all times, be sufficiently robust to meet the General Permit's and 33 U.S.C. ¶ 1342(p)(3)(A)'s requirement that all discharges associated with industrial activities be subjected to BAT and BCT. 2015 Permit §§ V(A), I(A)(1), I(D)(31), I(D)(32); 1997 Permit, Effluent Limitation B(3), Receiving Water Limitation C(3).

Despite these SWPPP and BMP requirements, Lynx Enterprises has been conducting and continues to conduct industrial operations at the Facility with an inadequately developed, implemented, and/or revised SWPPP.

The SWPPP fails to comply with the requirements of Section X(G)(2)(b) of the 2015 Permit by failing to identify and to implement required advanced BMPs.

The Facility's storm water samples and discharge observations have consistently exceeded EPA benchmarks and NALs, demonstrating the failure of its BMPs to reduce or prevent pollutants associated with industrial activities in the Facility's discharges consistent with the BAT and BCT requirements. Despite these exceedances, Lynx Enterprises has failed to sufficiently update the Facility's SWPPP. The Facility's SWPPP has therefore never achieved

the General Permit's objective to identify and implement BMPs to reduce or prevent pollutants associated with the industrial activities in storm water discharges consistent with reductions achieved by implementing BAT and BCT at the Facility.

CSPA puts Lynx Enterprises on notice that it violates the General Permit and the CWA every day that the Facility operates with an inadequately developed, implemented, and/or revised SWPPP. These violations are ongoing, and CSPA will include additional violations as information and data become available. Lynx Enterprises is subject to civil penalties for all violations of the CWA occurring since October 7, 2014.

D. Failure to Comply with General Permit Evaluation and ERA Requirements.

On or about October 23, 2018, Lynx Enterprises submitted an "Exceedance Response Action Evaluation and Report Level One" to the State Board's SMARTs system. The ERA Report and Level 1 status are triggered by exceedances of the NALs adopted in the 2015 General Permits. The ERA Level 1 report must, among other requirements, "[i]dentify in the evaluation the corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances and to comply with the requirements of this General Permit." 2015 Permit, § XII(C)(1)(c).

Lynx Enterprises' ERA Level 1 report addresses the Facility's exceedance of the NAL for annual NAL for zinc, N+N, iron, TSS, and aluminum during the 2017-2018 reporting year. Although the report identifies these NAL exceedances, Lynx Enterprises failed to identify BMPs necessary to prevent future NAL exceedances or to comply with BAT/BCT requirements of the permit. The ERA Level 1 Report identifies four additional BMPs for all of these NAL exceedances. By January 1, 2019, the Facility states that it will do housekeeping "on a more frequent basis," dispose of, "tarp[] or place[] under a shed" metals being stored outside, install witch hat filters in all storm drains, and remove accumulated sediment in storm drains as needed based on monthly inspections. None of these four measures identified in the ERA could have achieved, and indeed did not achieve, the applicable NALs for these pollutants.

Although the Level 1 Action Plan addresses aluminum, iron, N+N, TSS, and zinc, Lynx Enterprises failed to identify BMPs necessary to prevent future NAL exceedances or to comply with BAT/BCT requirement of the Permit. The measures identified in the ERA could not achieve, and indeed did not achieve, the applicable NAL for aluminum, iron, N+N, TSS, and zinc.

Although "[i]t is not a violation of this General Permit to exceed the NAL values; it is a violation of the permit, however, to fail to comply with the Level 1 status and Level 2 status ERA requirements in the event of NAL exceedances." General Permit Fact Sheet, p. 60. *See* 2015 Permit, Finding 53 ("A Discharger that does not fully comply with the Level 1 status and/or Level 2 status ERA requirements, when required by the terms of this General Permit, is in violation of this General Permit"). Accordingly, CSPA puts Lynx Enterprises on notice that it has violated and continues to violate the General Permit and the CWA every day that the Facility

operates without an adequate Level 1 ERA Report for aluminum, iron, N+N, TSS, and zinc. These violations are ongoing. Lynx Enterprises is subject to civil penalties for each day it has failed to submit an adequate Level 1 ERA Report.

III. Persons Responsible for the Violations.

CSPA puts Lynx Enterprises, Inc. and Vance Anderson on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts Lynx Enterprises, Inc. and Vance Anderson on notice that it intends to include those subsequently identified persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of CSPA is as follows:

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
Tel. (209) 464-5067

V. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

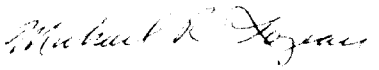
Michael R. Lozeau
Lozeau Drury LLP
1939 Harrison Street, Suite 150
Oakland, California 94612
Tel. (510) 836-4200
michael@lozeaudrury.com

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Lynx Enterprises to a penalty of up to $37,500 per day per violation for all violations occurring since October 7, 2014, up to and including November 2, 2015, and up to $54,833 for violations occurring after November 2, 2015. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CSPA intends to file a citizen suit under Section 505(a) of the Act against Lynx Enterprises and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CSPA does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Michael R. Lozeau
Lozeau Drury LLP
Attorneys for California Sportfishing Protection Alliance

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Patrick Pulupa, Executive Officer
Regional Water Quality Control Board
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Rancho Cordova, CA 95670-6114

ATTACHMENT A

Rain Dates, Lynx Enterprises, Tracy, CA

12/10/2015
12/11/2015
12/14/2015
12/19/2015
12/21/2015
12/22/2015
12/24/2015
12/25/2015
12/28/2015
1/5/2016
1/6/2016
1/7/2016
1/13/2016
1/14/2016
1/15/2016
1/16/2016
1/18/2016
1/19/2016
1/20/2016
1/23/2016
1/30/2016
1/31/2019
2/1/2016
2/3/2016
2/18/2016
3/5/2016
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3/7/2016
3/8/2016
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4/10/2016
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4/28/2016
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10/26/2016
10/28/2016
10/29/2016
10/31/2016
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2/27/2018
3/1/2018
3/2/2018
3/3/2018
3/4/2018
3/13/2018
3/14/2018
3/15/2018
3/16/2018
3/18/2018
3/21/2018
3/22/2018
3/23/2018
4/6/2018
4/7/2018

ATTACHMENT A

Rain Dates, Lynx Enterprises, Tracy, CA

4/8/2018
4/12/2018
4/16/2018
10/3/2018
10/4/2018
11/22/2018
11/23/2018
11/24/2018
11/28/2018
11/29/2018
11/30/2018
12/2/2018
12/5/2018
12/17/2018
12/25/2018
1/6/2019
1/7/2019
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